

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KIANA MAYERS and SHANA KING,

Plaintiffs,

v.

ATLANTA MARRIOTT HOTEL et al,

Defendants.

Civil Action No. 13-6824 (JLL) (JAD)

**REPORT AND
RECOMMENDATION**

JOSEPH A. DICKSON, U.S.M.J.

This matter comes before the Court upon Plaintiffs Kiana Mayers and Shana King's failure to prosecute this case. After carefully considering the record, and for good cause shown; and

WHEREAS Plaintiffs commenced this action by filing a Complaint in this Court on November 10, 2013. (ECF No. 1); and

WHEREAS a telephone status conference was held on September 17, 2014, at which time Plaintiffs' Counsel advised the Court that he was unable to locate his clients; and

WHEREAS the Court scheduled another telephone status conference on November 21, 2014, (ECF No. 9), at which time Plaintiffs' Counsel informed the Court that he was still unable to locate his clients; and

WHEREAS this Court finds that Plaintiffs' Complaint is subject to sua sponte dismissal given Plaintiffs' protracted and ongoing failure to prosecute the case. Shipman v. Delaware, 381

F. App'x. 162, 164 (3d Cir. 2010) ("A District Court has the authority to dismiss a suit sua sponte for failure to prosecute by virtue of its inherent powers and pursuant to Federal Rule of Civil Procedure 41(b)."). This Court recognizes that, "[w]hen using dismissal as a sanction, a District Court is ordinarily required to consider and balance six factors enumerated in Poulis v. State Farm Fire & Casualty Company, 747 F.2d 863, 868 (3d Cir. 1984). But when a litigant's conduct makes adjudication of the case impossible, such balancing under Poulis is unnecessary." Id. (affirming a District Court's dismissal without consideration of the Poulis factors where the plaintiff failed to engage in discovery and then failed to respond to the Court's request for an explanation regarding those discovery defaults); and

WHEREAS as a result of Counsel's inability to locate and communicate with his clients, Counsel, through no fault of his own, has been unable to meaningfully prosecute this matter; and

WHEREAS Plaintiffs have failed to establish good cause sufficient to justify prosecution of this case,

IT IS on this 21 day of November, 2014,

RECOMMENDED that Plaintiffs' Complaint be dismissed, without prejudice.


JOSEPH A. DICKSON, U.S.M.J.

cc: Hon. Jose L. Linares, U.S.D.J.